

71. Letter from Colby M. May to FCC dated February 13, 1989, filing Application for Receive-Only Earth Station in Michigan City, Indiana, on behalf of Trinity Broadcasting Network 237
72. Letter from Colby M. May to FCC dated February 27, 1989, filing Application of Trinity Broadcasting Network to Acquire Station W33AL, Brunswick, Georgia 238
73. Letter from Colby M. May to FCC dated March 7, 1989, filing Notice of Withdrawal of Minor Change Application for TV Translator Facility W65BI, Augusta, Georgia, on behalf of Trinity Broadcasting Network 239
74. Letter from Colby M. May to FCC dated March 10, 1989, filing Application for Modification of TV Translator W65BI, Augusta, Georgia, on behalf of Trinity Broadcasting Network 240
75. Letter from Colby M. May to FCC dated March 10, 1989, filing Application for Modification of TV Translator K15CO, Porterville, California, on behalf of Trinity Broadcasting Network 241
76. Letter from Colby M. May to FCC dated March 14, 1989, filing Application for Receive-Only Earth Station in Manhattan, Kansas, on behalf of Trinity Broadcasting Network 242
77. Letter from Colby M. May to FCC dated May 4, 1989, filing License Application for LPTV Facility W24AI, Michigan City, Indiana, on behalf of Trinity Broadcasting Network 243

78. Letter from Colby M. May to FCC dated May 9, 1989, giving notice of consummation of the assignment of LPTV Facility W67BY, Fort Myers, Florida, to Trinity Broadcasting Network 244
79. Letter from Colby M. May to FCC dated May 24, 1989, filing Application of Trinity Broadcasting Network to Acquire Station W34AY, Champaign, Illinois 245
80. Letter from Colby M. May to FCC dated May 25, 1989, filing 1989 Annual Employment Report for KTBN-TV, Santa Ana, California, on behalf of Trinity Broadcasting Network 246
81. Letter from Colby M. May to FCC dated June 8, 1989, giving notice of consummation of the assignment of LPTV Facility W33AL, Brunswick, Georgia, to Trinity Broadcasting Network 247
82. Letter from Colby M. May to FCC dated June 29, 1989, filing Application of Trinity Broadcasting Network to Acquire Station K28CI, Atwater, California 248
83. Letter from Colby M. May to FCC dated September 13, 1989, filing License Application for LPTV Facility K48CG, Loveland, Colorado, on behalf of Trinity Broadcasting Network 249
84. Letter from Colby M. May to FCC dated November 13, 1989, filing consolidated Ownership Report for Community Educational Television, Inc.; and related Ownership Report 250-256

1 MR. BECHTEL: Counsel, he's not going to give  
2 you any more information and --

3 MR. HOLT: Well, that's -- I'm troubled by  
4 that.

5 MR. BECHTEL: Well, you can be troubled by it  
6 all you want. This is about the eighth question that's  
7 almost the same. I'm going to direct him to stop  
8 talking about it.

9 BY MR. HOLT:

10 Q Do you recall what you and Mr. Berfield  
11 discussed regarding the invoice of March -- Mr. -- Mr.  
12 -- let me rephrase. Do you recall what you and  
13 Mr. Berfield discussed regarding Mr. Hoover's invoice  
14 of March 31, 1989?

15 A Mort Berfield indicated that this was what he  
16 had referred to to prepare his letter of November 7,  
17 1991.

18 Q Did he indicate to you how he received a copy  
19 of the invoice?

20 A I don't recall whether or not he indicated to  
21 me how he received a copy of this invoice.

22 Q Did he indicate to you that he had a copy of

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Docket No. 93-15 Exhibit No. 230

Presented by GLENDAL E

Disposition	{	Identified	<u>✓</u>	<u>5/5/94</u>
		Received	<u>✓</u>	<u>5/5/94</u>
		Rejected		

Reporter M.K. FUEISHMAN

Date 5/5/94

1 the invoice in his possession at the time he prepared  
2 the November 7th letter?

3 A I don't recall whether or not he indicated to  
4 me that he had a copy of this invoice in his possession  
5 when he created his November 7, 1991, letter.

6 Q But he told you that he referred to it?

7 A Yes.

8 Q Did he tell you -- is that the only invoice  
9 that he said he referred to in preparing the  
10 November 7, 1991, letter that dealt with Mr. Hoover's  
11 fees?

12 A Yes.

13 Q What did you and Mr. Berfield discuss  
14 regarding your October 31, 1991, letter to  
15 Mr. Sebastian?

16 A We discussed --

17 Q Let me rephrase. I'm sorry. I referred to  
18 it as October 31st. It should have been October 30,  
19 1991.

20 A We looked at it along with the handwritten  
21 note dated October 30, 1991, and he asked me if I could  
22 remember which note came first -- the fax to

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1           Q     I'd like to direct your attention to the next  
2 document in the package. It's a letter, a two-page  
3 letter on the letterhead of Cohen & Berfield dated  
4 November 7, 1991, and it was previously admitted into  
5 evidence as TBF Exhibit 232. Do you recognize this as  
6 a letter that was sent to you on or about November 7,  
7 1991, by Mr. Berfield?

8           A     I recognize this as a letter being sent to  
9 me, and it is signed by Mort Berfield, and I am -- the  
10 date that -- November 7, 1991, I believe I received it  
11 shortly after it was created by Mort Berfield.

12          Q     And this letter was prepared at your request,  
13 correct?

14          A     I believe this letter was prepared at my  
15 request.

16          Q     Now, the letter reflects or refers to costs  
17 that had been incurred by Raystay in connection with  
18 five of the -- with all five of the construction  
19 permits, right?

20          A     Yes.

21          Q     I'd like you to refer to the item marked  
22 number 1 in the letter "consulting engineering fees."

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Docket No. 93-75 Exhibit No. 231

Presented by GLENDALE

Disposition

{ Identified 5/5/94  
Received 5/5/94  
Rejected \_\_\_\_\_

Reporter M.K. FLEISHMAN

Date 5/5/94

1 Did you supply the figure reflected in that item of  
2 \$7,275 to Mr. Berfield?

3 A I don't recall whether or not I supplied that  
4 dollar figure to Mr. Berfield.

5 Q Do you recall discussing that figure with  
6 Mr. Berfield at any time prior to the receipt of this  
7 letter?

8 A I don't recall discussing that dollar figure  
9 with Mort Berfield at any time prior to receiving this  
10 letter.

11 Q Do you recall discussing with Mr. Berfield  
12 any dollar figure relating to engineering fees that had  
13 been paid by Raystay in connection with the CP prior to  
14 your receiving this letter?

15 A I don't recall discussing any specific dollar  
16 figure with Mort Berfield concerning the engineering  
17 fees on the LPTVs prior to receiving this letter.

18 Q Do you recall discussing any figure  
19 whatsoever?

20 A I recall discussing a figure that I couldn't  
21 determine, so it wasn't really a figure.

22 Q And could you elaborate? I don't understand

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1 your response.

2 A I know that in the fall of 1991 I was trying  
3 to find a dollar figure for the Robert Hoover  
4 engineering fees, and I couldn't find the information I  
5 was looking for.

6 Q What information were you looking for?

7 A I knew I had paid Bob Hoover something to do  
8 the engineering, and I couldn't find anything that  
9 showed when or where -- when or how much was paid for  
10 it.

11 Q Well, if you refer back to your October 17th  
12 note, I think you'll see that the figure reflected next  
13 to Mr. Hoover's name in that note of \$7,275 matches the  
14 figure reflected in this letter of \$7,275. Did you  
15 refer back to this note at the time that you were  
16 searching for this information?

17 A No.

18 Q Well, you had this information in your  
19 possession obviously, because you prepared the note  
20 which reflected the figure, correct?

21 MR. BECHTEL: That's kind of argumentative.  
22 But go ahead. This witness is very articulate.

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1 THE WITNESS: Could you say the question  
2 again, please?

3 BY MR. HOLT:

4 Q Well, on October 17, 1991, you prepared a  
5 note which reflected an engineering cost figure of  
6 \$7,275. On November 7th that figured appeared in the  
7 letter that was prepared by Mr. Berfield.

8 My question to you is, did you refer to this  
9 note at any time prior to the receipt of this letter  
10 from Mr. Berfield when you were searching for the  
11 information that you said you were searching for?

12 A I don't recall referring to the note dated  
13 October 17, '91 when I was searching for the  
14 information that I was searching for.

15 Q Do you have any understanding as to how  
16 Mr. Berfield arrived at this figure of \$7,275?

17 A My understanding at this time is that he  
18 would have had access to the invoice dated March 31,  
19 1989.

20 Q What was your understanding at the time that  
21 you received this letter from Mr. Berfield?

22 A I have no independent recollection of how he

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1 might have received these figures at the time I  
2 received this note.

3 Q Well, what is your present understanding  
4 concerning Mr. Berfield's access to this March 31st  
5 invoice based on? What's the basis for your present--  
6 you said you have a present understanding that he had  
7 access to the March 31st invoice. My question is,  
8 what's the basis for that understanding?

9 A I have it here in these documents. So if  
10 it's here, it's possible that he had access to it in  
11 1991.

12 Q You're saying it's possible. Do you have any  
13 knowledge as to whether he had access to the invoice at  
14 the time he prepared this letter?

15 A I have no independent recollection of whether  
16 or not Mort Berfield had access to this invoice in  
17 1991.

18 Q Have you been informed by anyone that  
19 Mr. Berfield had access to this invoice at the time he  
20 prepared this letter?

21 A I believe Mort Berfield, in discussions that  
22 we had in preparation for this proceeding, indicated

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1 that at some point in time he received either the  
2 invoice or the figure in his preparation of his  
3 November 7, 1991, letter.

4 Q Did he tell you from whom he received the  
5 invoice or figure?

6 A I don't recall who he said he received this  
7 figure from.

8 Q Is this a conversation that you had with  
9 Mr. Berfield directly?

10 A Yes.

11 Q When did that -- is it a single conversation  
12 or more than one?

13 A More than one.

14 Q Approximately how many conversations have you  
15 had with Mr. Berfield regarding this subject?

16 A Two or three.

17 Q When did those conversations occur?

18 A One was yesterday, and one was last week, and  
19 it's possible that we had a conversation about this  
20 letter during the last hearing -- during the  
21 proceedings during the last hearing.

22 Q What leads you to believe that that's a

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1 possibility?

2 A I recall having seen this letter before the  
3 preparation for this present proceeding recently. So I  
4 am saying that I may have seen this letter and  
5 discussed it with Mort Berfield during the preparation  
6 for the last proceeding.

7 Q Do you recall whether you saw this letter  
8 during the course of -- do you have any understanding  
9 as to whether Mr. Berfield submitted a declaration at  
10 any time in response to a Motion To Enlarge Issues that  
11 was filed by Trinity Broadcasting of Florida?

12 A Chris, you're using a lot of words I can't  
13 understand.

14 (Laughter.)

15 MR. BECHTEL: He's a lawyer. Come on.

16 (Laughter.)

17 MR. HOLT: Yeah. I'm paid to do that.

18 BY MR. HOLT:

19 Q Do you recall whether Mr. Berfield submitted  
20 a declaration or affidavit at any time during the  
21 course of any of these proceedings?

22 A I really don't keep track of those things in

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1 my mind. So I have no independent recollection of  
2 whether Mort Berfield has submitted affidavits or  
3 declarations concerning this particular letter in  
4 either of these proceedings.

5 Q Focusing on your conversation with  
6 Mr. Berfield of yesterday, can you relate to me what  
7 the two of you discussed?

8 A We discussed the letter in my handwriting of  
9 10/17. We discussed the Robert Hoover invoice of  
10 March 31, 1989. We discussed the October 31, 1991,  
11 letter to George Sebastian. We discussed the  
12 October 30, 1991, TBN offer in my handwriting. We  
13 discussed Mort Berfield's letter dated November 7,  
14 1991.

15 Do you want me to continue listing all here  
16 or --

17 Q Yes, I would.

18 A Okay. We discussed the Certification of  
19 Expense dated January 6, 1992, under my signature.  
20 Those are the documents that I remember discussing with  
21 Mort Berfield yesterday.

22 Q Is this conversation with Mr. Berfield one

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1       that occurred over the telephone, or was it a face-to-  
2       face conversation?

3           A     Face to face.

4           MR. BECHTEL:     Counsel, I don't want to  
5       interrupt. Just so you and the witness are the clear,  
6       this conversation with Mr. Berfield are conversation  
7       between two witnesses. Hopefully, the witness and you  
8       will bear in mind that I really don't think it's fair  
9       to ask him about his conversations with me as counsel.

10          MR. HOLT: I don't intend to.

11          MR. BECHTEL: No problem.

12          BY MR. HOLT:

13          Q     Who, if anyone, else was present during this  
14       face-to-face conversation that you had with  
15       Mr. Berfield?

16          A     John Schauble was there for part of the time,  
17       and he was out of the room part of the time.

18          Q     For approximately what portion of the  
19       conversation was Mr. Schauble in the room?

20          A     A small portion.

21          Q     How long did this conversation last?

22          A     With Mort Berfield?

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1 Q Yes.

2 A About an hour.

3 Q When you say "a small portion of the  
4 conversation," can you give me an approximate length of  
5 time?

6 A I didn't keep track of the time. John was  
7 out of the room more than he was in the room.

8 Q No one else was present during the  
9 conversation?

10 A No.

11 Q What have you discussed with Mr. Berfield  
12 regarding the note, your handwritten note of 10/17/91?

13 A Mort Berfield talked and I listened.

14 Q What did Mr. Berfield tell you?

15 A I listened but I didn't hear.

16 Q You have no recollection of what Mr. Berfield  
17 said to you about the October 17th note?

18 A He said it appeared to be in my handwriting.

19 Q Did he say anything else?

20 A Yes.

21 Q And what did he say?

22 A I didn't listen that well.

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1 Q What were you doing at the time that he was  
2 talking to you?

3 A Sitting there.

4 Q Were you ignoring him?

5 A No.

6 Q You didn't hear what he was saying to you?

7 A Yes, but I don't remember it.

8 Q You don't remember what he said to you  
9 yesterday?

10 A That's correct.

11 Q Approximately how long did you discuss this  
12 letter of 10/17?

13 A I wouldn't even be able to begin to guess.

14 Q Did it occur at the beginning of your  
15 conversation or at the end?

16 A Beginning.

17 Q Was it one of the -- did you review the  
18 document with Mr. Berfield during the conversation?

19 A It was in front of me, yes.

20 Q Did he point out anything to you in the  
21 document?

22 A Yes.

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1 Q What did he point out?

2 A Well, I may be confusing his pointing out  
3 with Mr. Bechtel's pointing out, but somebody pointed  
4 out to me that it says "cost of filing" in it.

5 Q Do you recall what you discussed regarding  
6 the cost of filing?

7 A In this note?

8 Q Yes. I mean, when that was pointed out to  
9 you, what did you discuss about it?

10 A That's all I recall.

11 Q Do you have any understanding as to why that  
12 aspect of the note was pointed out to you?

13 A Yes, I had missed it when I -- it was obvious  
14 from me talking to Mort that I did not see that in it  
15 when he was -- and I were discussing it.

16 Q What were you discussing?

17 A I don't recall, but I recall him pointing out  
18 to me that it said "cost of filing" in it.

19 Q Do you recall what you said to him about that  
20 subject?

21 A Yes.

22 Q What did you say to him?

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1 A Nothing.

2 Q Well, you indicated that a conversation  
3 occurred.

4 A He talked, I listened.

5 Q You also said that you said something to him  
6 about the note, and my question is what you said.

7 A I don't recall exactly what I said.

8 Q What did you say, generally?

9 A I don't recall generally what I said.

10 Q Do you recall the reason why you were  
11 discussing this October 17th note?

12 A I was asked to come down here and work with  
13 Cohen & Berfield yesterday and you today on -- and so I  
14 was doing what I was told.

15 Q But why -- do you have any understanding as  
16 to why you were -- specifically you were discussing the  
17 October 17, 1991, note?

18 A Mort Berfield put it on the table and started  
19 to talk about it.

20 Q Did you have any conversation with  
21 Mr. Berfield regarding the note before he put it on the  
22 table?

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